



**Texas Department of Insurance, Division of Workers' Compensation**  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

**Type of Requestor:** (x) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

Requestor's Name and Address:

MID-TOWN SURGERY CENTER, LLP

C/o Gilbert & Maxwell, PLLC

P. O. Box 1984

Houston, Texas 77251

MDR Tracking No.:

M4-04-4166-01

Claim No.:

Injured Employee's Name:

Respondent's Name and Address:

TML INTERGOVERNMENTAL RISK POOL

C/o Flahive Ogden & Latson

Box 19

Date of Injury:

Employer's Name:

City of Deer Park

Insurance Carrier's No.:

T140200068430

### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

"It is Mid-Town's position that this facility correctly and appropriately coded and billed for the treatment(s) and/or service(s) performed on the above referenced patient and date of service. Each and every item and service necessary for this medical care, including pre-operative and post-operative care, were documented thoroughly."

Principle Documentation:

1. Table of Disputed Services
2. UB-92
3. Explanation of Benefits
4. Operative Report

### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position summary as stated on letter from Carrier dated 12/09/03 states, "The provider was reimbursed at the fair and reasonable rate that CorVel recommends for outpatient surgery in Texas as per the above list information regarding the methodology to reimburse outpatient, non-trauma, non-rural charges at the rate of \$2,236.00, therefore, the carrier has complied with all rules and guidelines and additional reimbursement should not be recommended."

Principle Documentation:

1. Position Summary

### PART IV: SUMMARY OF DISPUTE AND FINDINGS

Date(s) of Service	CPT Code(s) or Description	Part V Reference	Additional Amount Due (if any)
12/19/02	Ambulatory Surgical Center Care	1	\$0.00
01/16/03	Ambulatory Surgical Center Care	1	\$0.00

### PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

1. This dispute relates to services provided in an Ambulatory Surgical Center that are not covered under a fee guideline for this date of service. Accordingly, the reimbursement determined through this dispute resolution process must reflect a fair and reasonable rate as directed by Commission Rule 134.1. This case involves a factual dispute about what is a fair and reasonable reimbursement for the services provided.

After reviewing the documentation provided by both parties, it appears that neither the requestor nor the respondent provided convincing documentation that sufficiently discusses, demonstrates, and justifies that their purported amount is a fair and reasonable reimbursement (Rule 133.307). The failure to provide persuasive information that supports their proposed amounts makes rendering a decision difficult.

After reviewing the services, the charges, and both parties' positions, it is determined that no other payment is due.

During the rule development process for facility guidelines, the Commission had contracted with Ingenix, a professional firm specializing in actuarial and health care information services, in order to secure data and information on reimbursement ranges for these types of services. The results of this analysis resulted in a recommended range for reimbursement for workers' compensation services provided in these facilities. In addition, we received information from both ASCs and insurance carriers in the recent rule revision process. While not controlling, we considered this information in order to find data related to commercial market payments for these services. This information provides a very good benchmark for determining the "fair and reasonable" reimbursement amount for the services in dispute.

To determine the amount due for this particular dispute, staff compared the procedures in this case to the amounts that would be within the reimbursement range recommended by the Ingenix study (from 173.9% to 226.5% for this particular year, 2002 and from 192 .6% to 256.3% of Medicare for this particular year, 2003). Staff considered the other information submitted by the parties and the issues related to the specific procedures performed in this dispute. Based on this review, the original reimbursement on these services is within the high end of the Ingenix range. According to the CMS ASC guidelines lab fee and diagnostic or therapeutic items or services are included in the facility fees and not separately payable. The decision for no additional reimbursement was then presented to a staff team with health care provider billing and insurance adjusting experience. This team considered the decision and discussed the facts of the individual case.

Based on the facts of this situation, the parties' positions, the Ingenix range for applicable procedures, and the consensus of other experienced staff members in Medical Review, we find that no additional reimbursement is due for these services.

#### **PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.1  
28 Texas Administrative Code Sec. 134.1  
28 Texas Administrative Code Sec. 133.307

#### **PART VII: DIVISION DECISION**

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is **not** entitled to additional reimbursement.

Findings & Decision by:

September 28, 2005

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Date of Decision

#### **PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable. The Division is not considered a party to the appeal.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**